

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 IO-13 ISO-00 FEA-01 ACDA-07 AGRE-00
AID-05 CEA-01 CEQ-01 CG-00 CIAE-00 COME-00
DLOS-09 DODE-00 DOTE-00 EB-08 EPA-01 ERDA-05
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FM AMEMBASSY LONDON
TO SECSTATE WASHDC 6985
INFO AMEMBASSY PARIS
AMEMBASSY ANKARA
AMEMBASSY ATHENS
USMISSION GENEVA

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E.O. 11652: N/A
TAGS: PLOS, FR, UK
SUBJECT: FRANCE-UK CONTINENTAL SHELF BOUNDARY LINE
ARBITRATION SETTLEMENT

REF: (A) STATE 181078; (B) STATE 184385; (C) ANKARA 5803

1. EMBASSY DISCUSSED SUBJECT DECISION WITH UK FCO
OFFICERS PETER DUNNE AND FRANK BERMAN. MR. BERMAN WAS
THE FCO LAWYER IN CHARGE OF PREPARATION OF THE UK BRIEFS
IN THE CASE. BERMAN PROVIDED A COPY OF GOVERNMENT
STATEMENT IN THE HOUSE OF COMMONS ON THE ARBITRATION
DECISION AND A CHART OF THE BOUNDARY LINE. THESE,
TOGETHER WITH NEWSPAPER ARTICLES ON THE DECISION, ARE

BEING FORWARDED BY AIR POUCH TO INR/RGE. THE ACTUAL
TEXT OF THE DECISION RUNS TO 250 PAGES AND LESS THAN A
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DOZEN COPIES WERE PROVIDED TO THE UK BY THE COURT. HOW-
EVER, UK IS PRESENTLY PHOTO DUPLICATING A LIMITED
NUMBER OF COPIES AND PROMISES TO PROVIDE EMBASSY WITH
ONE COPY THIS WEEK FOR FORWARDING TO DEPARTMENT.
DECISION WILL BE PUBLISHED LATER BY HMG STATIONERY
OFFICE.

2. THE TEXT OF THE STATEMENT IN THE HOUSE OF COMMONS
WAS AS FOLLOWS:

BEGIN QUOTE: THE COURT OF ARBITRATION ESTABLISHED IN GENEVA UNDER THE ARBITRATION AGREEMENT OF 10TH JULY 1975 BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE FRENCH REPUBLIC WAS REQUESTED TO DECIDE THE COURSE OF THE BOUNDARY (OR BOUNDARIES) BETWEEN THE PORTIONS OF THE CONTINENTAL SHELF APPERTAINING TO THE UNITED KINGDOM AND THE CHANNEL ISLANDS AND TO THE FRENCH REPUBLIC, RESPECTIVELY, WESTWARD OF 0 DEGREES 30' WEST AS FAR AS THE 1,000 METRE ISOBATH IN THE SOUTH-WESTERN APPROACHES; THE DECISION OF THE COURT WAS DELIVERED TO REPRESENTATIVES OF THE UNITED KINGDOM AND FRANCE ON 18TH JULY. UNDER THE ARBITRATION AGREEMENT BOTH PARTIES AGREED THAT THE COURT'S AWARD WOULD BE BINDING. IN A UNANIMOUS DECISION, THE COURT LAID DOWN THE CONTINENTAL SHELF BOUNDARIES AS FOLLOWS:

IN THE ENGLISH CHANNEL, THE BOUNDARY IS A MEDIAN LINE GIVING FULL EFFECT TO ALL ISLANDS (EXCEPT THE CHANNEL ISLANDS);

NORTH AND WEST OF THE CHANNEL ISLANDS, BECAUSE OF THE GEOGRAPHICAL CIRCUMSTANCES, THE BOUNDARY IS DRAWN AT A DISTANCE OF 12 MILES FROM CHANNEL LIMITED OFFICIAL USE

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ISLANDS BASE-POINTS, THUS LEAVING A STRIP OF FRENCH CONTINENTAL SHELF BETWEEN THIS LINE AND THE MEDIAN LINE DESCRIBED ABOVE;

IN THE SOUTH-WESTERN APPROACHES THE BOUNDARY IS A MEDIAN LINE WHICH, BECAUSE THE COURT FOUND THAT THE LOCATION OF THE SCILLY ISLES CONSTITUTED A SPECIAL CIRCUMSTANCE, IS ADJUSTED TO GIVE ONE-HALF EFFECT TO THE SCILLY ISLES.

THE COURT DECIDED THAT THE PARTIES HAD NOT CONFERRED ON IT THE COMPETENCE TO LAY DOWN A BOUNDARY TO THE SOUTH AND EAST OF THE CHANNEL ISLANDS, INASMUCH AS THIS WOULD INVOLVE RESOLVING DISPUTED POINTS RELATING TO THE MEASUREMENT OF THE TERRITORIAL SEAS OF THE TWO PARTIES. END QUOTE.

3. THE MAJOR LEGAL POINT PUT BEFORE THE COURT WAS WHETHER OR NOT THE 1958 CONTINENTAL SHELF CONVENTION WAS APPLICABLE TO THE DISPUTE IN LIGHT OF THE FRENCH RESERVATIONS, PARTICULARLY TO ARTICLE 6. THE UK, AS WELL AS THE US, EXPRESSED ITSELF UNABLE TO ACCEPT CERTAIN OF

THE FRENCH RESERVATIONS. THE FRENCH ARGUED THAT THE TREATY WAS NOT IN FORCE AS BETWEEN THE UK AND FRANCE BECAUSE OF THE UK REFUSAL TO ACCEPT CERTAIN OF THE FRENCH RESERVATIONS. THE COURT BY AND LARGE UPHELD THE UK POSITION THAT THE TREATY WAS APPLICABLE, EXCEPT IN CASES WHERE A FRENCH RESERVATION WAS RELEVANT (THAT WAS

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THE FRENCH RESERVATION WITH RESPECT TO THE PROCEDURE FOR DETERMINING AREAS OF SPECIAL CIRCUMSTANCES UNDER THE TREATY--THE FRENCH IN THEIR RESERVATION NAMED THE AREAS OF SPECIAL CIRCUMSTANCES, ONE OF WHICH WAS THE CHANNEL ISLANDS). A SECOND FRENCH RESERVATION WHICH WAS POSSIBLY RELEVANT RESERVED ON ANY USE OF ARTICLE 6 BEYOND 200 METERS. THE COURT DECIDED, HOWEVER, THAT BY APEALING TO THE COURT WITH A CLAIM THAT WENT TO 1000 METERS, FRANCE HAD SET ASIDE THAT RESERVATION. WHEN ASKED WHY 1000 METERS HAD BEEN CHOSEN BY BOTH SIDES AS THE EXTENT OF THE CLAIMS, BERMAN INDICATED NEITHER SIDE HAD WISHED TO PREJUDICE THE LAW OF THE SEA CONFERENCE.

IN ESTABLISHING THE SPECIAL TREATMENT FOR THE CHANNEL ISLANDS, THE COURT SEEMS TO HAVE TAKEN COGNIZANCE OF THE EARLIER FRENCH CLAIM OF SPECIAL CIRCUMSTANCES FOR THE LIMITED OFFICIAL USE

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CHANNEL ISLANDS AREA, BUT THE ARGUMENTS ON THIS POINT WERE COMPLEX, INCLUDING FRENCH CLAIMS ABOUT NEED FOR CONTROL OF AREA AROUND ISLANDS FOR NAVIGATION PURPOSES INTO CHERBOURG AND DIEPPE, THAT THE DECISION NEEDS TO BE STUDIED BEFORE DRAWING ANY CONCLUSIONS ABOUT POSSIBLE PRECEDENTS. THE COURT'S DECISION GIVING HALF WEIGHT TO UK'S SCILLY ISLES IS EQUALLY COMPLEX.

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